

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:11cr88
	.	
vs.	.	Alexandria, Virginia
	.	March 2, 2011
CATHERINE KISSICK,	.	10:00 a.m.
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Defendant.	.	
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TRANSCRIPT OF PRE-INDICTMENT PLEA HEARING
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	CHARLES F. CONNOLLY, AUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314 and PATRICK F. STOKES, ESQ. United States Department of Justice Criminal Division, Fraud Section 1400 New York Avenue, N.W. Washington, D.C. 20005
FOR THE DEFENDANT:	DOUGLAS A. STEINBERG, ESQ. 107 North Payne Street Alexandria, VA 22314 and KENTON V. SANDS, ESQ. Sands, White & Sands, P.A. 760 White Street Daytona Beach, FL 32114
OFFICIAL COURT REPORTER:	ANNELIESE J. THOMSON, RDR, CRR U.S. District Court, Fifth Floor 401 Courthouse Square Alexandria, VA 22314 (703)299-8595

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 P R O C E E D I N G S

2 (Defendant present.)

3 THE CLERK: Criminal Case 11-88, United States of
4 America v. Catherine Kissick. Would counsel please note their
5 appearances for the record.

6 MR. CONNOLLY: Good morning, Your Honor. Charles
7 Connolly and Patrick Stokes on behalf of the United States.

8 THE COURT: Good morning.

9 MR. STEINBERG: Good morning, Your Honor. Douglas
10 Steinberg representing the defendant, Ms. Kissick, who is present
11 on terms of her pretrial release, and I'll also introduce Kenton
12 Sands --

13 MR. SANDS: Good morning, Your Honor.

14 THE COURT: Good morning.

15 MR. STEINBERG: -- who I will be in a second moving in
16 pro hac vice.

17 THE COURT: I've already signed the order.

18 MR. STEINBERG: Thank you, Your Honor.

19 And to perhaps head off one preliminary question, both
20 Mr. Sands and myself together went over the plea documents with
21 our client, so she had the benefit of both counsel at the time.

22 THE COURT: Thank you, Mr. Steinberg.

23 All right, Ms. Kissick, come up to the lectern. The
24 clerk is going to place you under an affirmation.

25 CATHERINE LEE CROCKETT KISSICK, DEFENDANT, AFFIRMED

1 THE COURT: All right, Ms. Kissick, you have now taken a
2 promise to tell the truth in answering the Court's questions this
3 morning. If you should lie in answering any question, the
4 government could prosecute you for a new and separate crime called
5 perjury. Do you understand that?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: For the record, what is your full name?

8 THE DEFENDANT: Catherine Lee Crockett Kissick.

9 THE COURT: All right. And, Ms. Kissick, how old are
10 you?

11 THE DEFENDANT: Fifty.

12 THE COURT: How much education have you completed?

13 THE DEFENDANT: I have a master's degree.

14 THE COURT: I assume therefore that you don't have any
15 problem reading, writing, understanding, or speaking English; is
16 that correct?

17 THE DEFENDANT: Correct.

18 THE COURT: And are you a United States citizen?

19 THE DEFENDANT: Yes, I am.

20 THE COURT: Are you presently on probation or parole
21 from any other criminal matter?

22 THE DEFENDANT: No.

23 THE COURT: Are you at this time under the care of a
24 doctor for any physical or mental condition?

25 THE DEFENDANT: No.

1 THE COURT: Within the last 24 hours, have you taken any
2 medication, whether by prescription or over the counter?

3 THE DEFENDANT: I took Benadryl this morning because of
4 allergies.

5 THE COURT: All right. Has that medication made you at
6 all drowsy or made it difficult for you to understand what's going
7 on around you?

8 THE DEFENDANT: No.

9 THE COURT: All right. Other than that medication,
10 anything else?

11 THE DEFENDANT: No.

12 THE COURT: Are you at this time under the influence of
13 any alcohol or drugs?

14 THE DEFENDANT: No.

15 THE COURT: And, Ms. Kissick, we have several documents
16 we need to go over this morning in connection with your plea, and
17 the first document has the title "Waiver of an Indictment," and I
18 see what appears to be your signature and that of counsel. Did
19 you, in fact, sign the waiver of indictment?

20 THE DEFENDANT: Yes, I did.

21 THE COURT: And was that signed today?

22 THE DEFENDANT: Yes.

23 THE COURT: But before today, had you gone over it with
24 counsel?

25 THE DEFENDANT: Yes.

1 THE COURT: All right. Now, did your lawyers explain to
2 you that under the laws and Constitution of the United States, you
3 have an absolute right to require that the federal prosecutors go
4 before a group of people called a federal grand jury with the
5 conspiracy charge that they want to file against you today? Do
6 you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Now, a federal grand jury is made up of
9 anywhere from 16 to 23 ordinary citizens who are brought together
10 on a random basis to the court, and the job of a federal grand
11 jury is to act as a kind of gatekeeper or a reviewing system of
12 criminal cases. Specifically, the job of the grand jury is to
13 review potential criminal cases to determine whether or not they
14 should be actually filed in open court and the person actually
15 brought into court and be charged.

16 What happens in the grand jury process, which is
17 completely secret, is a federal prosecutor goes into the grand
18 jury room, advises the grand jury that the prosecutor believes the
19 person may have violated certain federal criminal laws, and then
20 presents evidence to the grand jury supporting that position.

21 The evidence could be the testimony of witnesses, it
22 could be physical exhibits, again different types of evidence, but
23 at the end of the presentation, if at least 12 members of the
24 grand jury are satisfied that the evidence presented establishes
25 probable cause to believe that the crime or crimes have been

1 committed by the person who the government wants to charge, then
2 the grand jury issues a document called an indictment, and that is
3 normally how a felony-level criminal case begins in federal court.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: That grand jury review process is considered
7 to be a protection of a person's individual rights, because it
8 exists to make sure that a federal prosecutor doesn't just come
9 into court and openly file serious criminal charges against a
10 person without there being a genuine factual basis to support such
11 charge or charges. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Now, a person can give up her right to that
14 grand jury process, and that would be done by signing a waiver of
15 indictment such as the one you have signed. The word "waiver" in
16 the law means to give something up, so by waiving indictment,
17 you're giving up that grand jury review process, and instead,
18 you're authorizing the prosecutors to come to court and file this
19 conspiracy charge against you using a document called a criminal
20 information which has not been tested by the grand jury.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: And did you understand all of that before
24 you signed the waiver?

25 THE DEFENDANT: Yes, I did.

1 THE COURT: All right. Now, other than the plea
2 agreement, which we will get to in a moment, but other than that,
3 has anybody promised or suggested to you that by waiving
4 indictment, you would get a lighter sentence or more favorable
5 treatment by the Court?

6 THE DEFENDANT: No.

7 THE COURT: Has anyone put any force or pressure on you
8 to waive indictment today?

9 THE DEFENDANT: No.

10 THE COURT: All right, Mr. Steinberg, have you and
11 cocounsel carefully gone, gone over this waiver with Ms. Kissick?

12 MR. STEINBERG: Yes, Your Honor. We explained all of
13 her rights.

14 THE COURT: And are you satisfied that Ms. Kissick has
15 entered that waiver in a knowing and voluntary fashion?

16 MR. STEINBERG: Yes.

17 THE COURT: All right. Then based on these answers,
18 Ms. Kissick, the Court finds that you have waived your right to
19 indictment in a knowing and voluntary fashion and that you've had
20 the full advice of counsel with that decision. So the waiver is
21 granted, and that allows the government to file the following
22 charge against you, and that's contained in a four-page criminal
23 information. I assume you have a copy of that information.

24 THE DEFENDANT: Yes.

25 THE COURT: Or have you seen it?

1 THE DEFENDANT: I've seen it, yes.

2 THE COURT: So I'm going to summarize it for you, but
3 essentially, the government has charged that beginning in or about
4 the year 2002 and continuing through August of 2009, in the
5 Eastern District of Virginia and elsewhere, that you knowingly and
6 intentionally conspired with others to commit three crimes against
7 the United States, specifically, bank fraud, wire fraud, and
8 securities fraud.

9 And then it's alleged among -- in paragraph 2 of this
10 criminal information that you and coconspirators among other
11 things caused the transfer of funds between Taylor, Bean &
12 Whitaker Mortgage Corporation bank accounts at Colonial Bank in an
13 effort to hide TBW overdrafts, and it goes on in Count 2 to go
14 through other specific acts that were done in furtherance of this
15 conspiracy, including submitting materially false information to
16 the FDIC and to the SEC in furtherance of applications for the
17 Troubled Asset Relief Program funds.

18 That's the nature of this conspiracy: mail fraud, bank
19 fraud, and securities fraud. Do you understand that?

20 THE DEFENDANT: Mail fraud?

21 THE COURT: I'm sorry.

22 MR. CONNOLLY: Wire fraud.

23 THE COURT: I'm sorry, wire fraud, not mail fraud.

24 THE DEFENDANT: Okay.

25 THE COURT: Wire fraud, bank fraud, and securities

1 fraud.

2 MR. STEINBERG: Yes.

3 THE COURT: That's the nature of the conspiracy charge.
4 Now, to this charge, how do you want to plead, guilty or not
5 guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: All right, Ms. Kissick, before the Court
8 accepts your guilty plea, I'm going to review with you both the
9 plea agreement you have with the government and the statement of
10 facts. At any point this morning while I'm asking you these
11 questions if you should change your mind and decide you don't want
12 to plead guilty, you can stop the process.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. The plea agreement that's been
16 filed in court today is 15 pages long, and I see what appears to
17 be your signature on page 14. Did you, in fact, sign the written
18 plea agreement?

19 THE DEFENDANT: Yes, I did.

20 THE COURT: And again, that has today's date, so you
21 signed it today; is that correct?

22 THE DEFENDANT: I signed one a couple weeks ago, but
23 then I signed this one today.

24 THE COURT: All right.

25 MR. STEINBERG: And that only had the case number on it

1 is the only real difference.

2 THE COURT: The one that we have today.

3 MR. STEINBERG: Right.

4 THE COURT: All right. Ms. Kissick, approximately when
5 did you first start seeing drafts of the plea agreement? I don't
6 need the exact date. Approximately when?

7 THE DEFENDANT: I think December '09 or January 2010.

8 THE COURT: All right. In other words, you've had this
9 plea under -- a plea under consideration for a significant amount
10 of time?

11 THE DEFENDANT: A version of, yes.

12 THE COURT: All right. And obviously, there have been
13 different versions of the plea and I assume also the statement of
14 facts as time has gone by?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. And have you carefully discussed
17 each of those versions with your counsel?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Now, I'm particularly and only
20 interested really in the one that's in court today, all right? So
21 I want to make sure first of all that you take a look at page 14
22 of the plea agreement, and right above your signature are two
23 sentences that I want to make sure you appreciate are part of
24 this. They go, "I have read this plea agreement and carefully
25 reviewed every part of it with my attorney. I understand this

1 agreement and voluntarily agree to it."

2 Now, are those two sentences completely true?

3 THE DEFENDANT: Yes.

4 THE COURT: So you have, in fact, read this entire plea
5 agreement yourself?

6 THE DEFENDANT: Yes.

7 THE COURT: And discussed it thoroughly with counsel?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. Now, have you asked your lawyers
10 all the questions that you have about this plea agreement?

11 THE DEFENDANT: Yes.

12 THE COURT: Have they answered your questions to your
13 satisfaction?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you have any questions you want to ask me
16 about the plea agreement?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: All right. During the course of the plea,
19 if some questions should arise, you can talk to your counsel, or
20 you can ask me. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Now, because you've told the
23 Court that you've read the entire plea agreement and discussed it
24 thoroughly with counsel and that you understand it and you're
25 voluntarily agreeing to it, that means you will be bound by

1 everything written in this plea agreement even if I don't go over
2 every paragraph or page with you in court today. Do you
3 understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: The reason for that result is that in
6 essence, this plea agreement is really a written contract between
7 you and the United States government, and you know -- you have a
8 master's degree, and you're in the business world -- when you sign
9 a written contract after having thoroughly discussed it with
10 counsel and a person understands it when she signs it and signs it
11 voluntarily, then that document becomes a binding legal
12 instrument, and you can't just come back to court in a couple of
13 weeks and say, "I thought more about page 4. I don't like it. I
14 want to change it." That's too late.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, other than the 15-page plea agreement
18 and the statement of facts, which is incorporated in the plea
19 agreement, has anybody promised or suggested to you any other
20 relief, or do you feel you have any other kind of side deal or
21 understanding with any bank examiners, SEC investigators,
22 investigators for this case, prosecutors, or anybody else?

23 THE DEFENDANT: No.

24 THE COURT: Mr. Steinberg, is that counsel's
25 understanding as well, that there are no, no side deals or

1 understandings other than what's in this plea agreement?

2 MR. STEINBERG: That is correct.

3 THE COURT: Do the prosecutors have a concern about
4 that?

5 MR. CONNOLLY: No, Your Honor. Just that I would note
6 that this morning, I believe the Securities and Exchange
7 Commission filed a civil complaint as well.

8 THE COURT: Well, that wouldn't be an agreement. I
9 mean, I'm looking for, you know, there may be side effects of this
10 plea.

11 MR. CONNOLLY: It's a settlement agreement not with us,
12 Your Honor.

13 THE COURT: The settlement agreement, oh, I'm sorry.

14 MR. CONNOLLY: Correct. It's a separate civil action,
15 but just you said anything else, bank examiners, any others, and
16 my understanding is that a civil settlement agreement was filed
17 this morning.

18 THE COURT: Ms. Kissick, are you aware of that?

19 THE DEFENDANT: I signed it in August. I didn't know
20 when they were going to file it.

21 THE COURT: All right. But that's not any part of this
22 plea agreement.

23 THE DEFENDANT: No.

24 THE COURT: Or is it?

25 MR. CONNOLLY: It's not, Your Honor.

1 THE COURT: All right.

2 MR. CONNOLLY: I understood your question to be more
3 broad.

4 THE COURT: Fine, all right.

5 And, counsel, were you involved in that settlement
6 agreement?

7 MR. STEINBERG: I was -- Mr. Sands is aware of it.

8 MR. SANDS: Yes, I was, Your Honor, and it was my
9 understanding that it will be filed today.

10 THE DEFENDANT: Oh.

11 THE COURT: Because the plea is going forward today?
12 I'm just curious, is that what the timing is what it is?

13 MR. SANDS: Again, I can't look into the minds of the
14 people who are doing it, but I think that that's the case, yes.
15 They've indicated to me that they were going to hold off until
16 after a plea was entered in this case.

17 THE COURT: Well, it's not yet entered, so they've
18 jumped the gun by perhaps a few minutes or hours. That's
19 presuming that I'll accept the plea, but I don't mean to give
20 anybody a heart attack. I'm sure we're going to go forward just
21 fine today.

22 In any case, though, Ms. Kissick, I want to make sure,
23 again, do you think you have any other understanding or deal with
24 any government authorities concerning this case which is not
25 clearly reflected in the plea agreement?

1 THE DEFENDANT: No.

2 THE COURT: All right. Then I want you to turn to page
3 1, paragraph 1. There it says you've agreed to waive indictment,
4 which you have just done, and to enter a guilty plea to the
5 criminal information I summarized for you, which charges the
6 conspiracy to commit bank fraud, wire fraud, and securities fraud.

7 Now, that conspiracy carries a possible maximum penalty
8 of 30 years in prison followed by a period of up to five years of
9 supervised release. In addition, you could be required to pay a
10 fine of \$250,000 or alternatively a fine of not more than greater
11 than twice the gross gain or twice the gross loss for the offense
12 as well as full restitution to the victims and a special automatic
13 special assessment of \$100.

14 Do you understand the penalties you're exposed to with
15 this plea?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, parole is not available in the federal
18 system, and that means whatever term of imprisonment is imposed
19 must be fully served. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: The supervised release portion of the
22 sentence does not begin until the prison portion has been
23 satisfied. When a person is on supervised release, she is under
24 the control of a federal probation officer, and there may be
25 requirements to do certain things.

1 For example, in a crime involving financial issues,
2 there are usually limitations on the ability of the defendant to
3 spend certain sums of money, a requirement that financial records
4 be produced to the probation officer at his or her direction. If
5 there were restitution obligations, there's usually some sort of a
6 monetary requirement, monthly minimum payments, that sort of
7 thing.

8 I can't give you all the details yet as to what
9 supervised release would have as conditions, because I haven't
10 seen the presentence report, but what you need to understand is
11 that if you violate any condition of supervised release, the Court
12 can punish you by sending you back to prison, and that could be
13 for as long as the period of supervised release, which is five
14 years. Do you understand that?

15 THE DEFENDANT: Yes. Yes.

16 THE COURT: Now, when it comes time for sentencing, the
17 Court is first of all going to have to determine the federal
18 sentencing guidelines that apply to your case, and the way the
19 guidelines operate -- and I'm sure your counsel have discussed
20 them with you -- but the Court needs to make two decisions, and
21 then the guidelines can be calculated. We first have to determine
22 your criminal history.

23 Criminal histories are divided into six categories,
24 depending upon the number of convictions, probation or parole
25 violations, and other matters. A level I criminal history goes to

1 someone who's never been in trouble with the law or has a very
2 minor record, and then as convictions and, as I said, other
3 problems occur, the score goes up, with a level VI going to the
4 most serious offenders.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Then the Court has to determine the offense
8 level. Now, every federal crime has a number given to it by the
9 Sentencing Commission, and then depending upon the particular
10 facts of the case, that number can go up or down. In paragraph 6
11 of your plea agreement, you and your counsel and the government
12 have agreed to certain factors for the guidelines. This agreement
13 in paragraph 6 is binding on you and your counsel and the
14 prosecutors but in no respect binds the Court or the probation
15 officer.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Specifically, paragraph 6.a, in paragraph
19 6.a, you and the government have agreed that the base offense
20 level for the conduct charged in the criminal information is a
21 level 7, and then in paragraph 6.b, there's an indication that
22 because there were more than 250 victims and the conduct in Count
23 1 substantially jeopardized the safety and soundness of a
24 financial institution, there will be various upward adjustments,
25 and I think in this case, it's eight according to what you have in

1 that paragraph.

2 In paragraph 6.c, there's an indication that
3 sophisticated means were used, and that would qualify for a
4 two-level increase; and in paragraph 6.d, you and the government
5 have agreed that your involvement in this conspiracy would be as
6 an organizer or leader of more than five participants and
7 therefore would qualify for a four-level enhancement.

8 Lastly, in paragraph 6.e, there's a -- you have agreed
9 that you willfully obstructed or impeded or attempted to obstruct
10 or impede the administration of justice and that that would result
11 in a two-level increase.

12 I note from other pleas I've taken in this case that the
13 parties have not agreed to a monetary loss amount.

14 MR. CONNOLLY: That's correct, Your Honor.

15 MR. STEINBERG: That is correct.

16 THE COURT: All right. So that's an issue obviously
17 that the parties are going to be free to discuss. But in any
18 case, in paragraph 6.f, the government has agreed that if you
19 qualify for the two-level reduction to the offense level for full
20 acceptance of responsibility, the government will ask the Court to
21 add one more level decrease. A three-level decrease for
22 acceptance of responsibility is the maximum. There are no other
23 levels that can be added for that.

24 Is that your understanding of the agreement as to
25 sentencing factors?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. As I said, that agreement is
3 binding on you and your counsel and the government. It's not
4 binding on the Court, so at the sentencing hearing, I may find
5 different factors. I may not give you a leadership role, for
6 example, or I may find that there are fewer than 250 victims.

7 On the other hand, one of the big factors that's not
8 listed here is the amount of loss. The more loss involved, the
9 higher the level is going to be. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. But in the end, we have two
12 numbers, a criminal history number and the offense level number,
13 and those are put on a one-page chart, and that establishes the
14 advisory guideline range. Now, the Court is required to look at
15 that range but is not required to sentence within it, and if the
16 Court has good reasons to sentence above it or below it, the Court
17 may do so.

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: So in addition to the guidelines, the Court
21 is also going to look at all of the factors in section 3553(a) of
22 Title 18, which requires the Court to look at, in depth at a
23 person's entire background: financial, family, health, employment
24 background.

25 The Court also has to look at the need for deterrence,

1 and that involves two factors: one, the particular defendant.
2 Does she have a record such that a long sentence is necessary to
3 guarantee or to improve the chances that she will not repeat that
4 criminal conduct? That's called individual deterrence.

5 Another factor the Court has to look at is general
6 deterrence, and that is, what message this case needs to send to
7 other similarly situated people to make sure that they don't
8 engage in such criminal activity. And the Court has to look at
9 other persons involved in the conspiracy and the kinds of
10 sentences that they get, so it's a complicated calculus that goes
11 on, but in the end, the Court will determine the sentence.

12 Now, I'm assuming that you have discussed, because most
13 defendants do this, with your counsel what their estimate is as to
14 the type of punishment or sentence you may be getting in this
15 case. Have you had those type of discussions?

16 THE DEFENDANT: Yes, we have.

17 THE COURT: I'm sorry?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. And your lawyers have most
20 likely given you estimates. Some of those estimates may be based
21 upon different factors, like if the judge makes this finding, then
22 you might get this kind of a sentence, or if such-and-such a thing
23 happens, then it's more likely that this might be the outcome.

24 Have you had that general type of discussion with
25 counsel?

1 THE DEFENDANT: Yes.

2 THE COURT: What I want to make sure you understand is
3 that no matter what your lawyers may have told you they expect or
4 they hope you will get as a sentence or, for that matter, if the
5 prosecutors or any investigators have given you their ideas about
6 what kind of sentence you may get, none of those discussions in
7 any respect bind or limit the probation officer who prepares the
8 presentence report or this Court when it goes to sentence you.

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: And so if at the sentencing hearing you
12 receive a sentence that is different from what you're expecting or
13 hoping for, that will not give you a basis to withdraw your guilty
14 plea. Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Now, normally a defendant in a criminal case
17 has the right to appeal the sentence imposed on her, but if you
18 look at paragraph 5 of your plea agreement, that's on page 3, and
19 it's the second sentence of that paragraph, beginning with the
20 word "nonetheless," as a condition of this plea agreement, you are
21 knowingly waiving -- again that same word, which means giving
22 up -- the right to appeal both your conviction for the conspiracy
23 and any sentence within the statutory maximum, and that means as
24 long as the Court does not sentence you to more than 30 years in
25 prison followed by five years of supervised release and the fine

1 imposed is not more than \$250,000 or the alternative of not more
2 than the greater of twice the gross gain or twice the gross loss
3 and the \$100 special assessment is not more than \$100, then you
4 cannot appeal the sentence for any reason.

5 Do you understand that?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: All right. Now, in exchange for your guilty
8 plea, the government has agreed in paragraph 10 that it will --
9 when I say "the government," the United States will not further
10 prosecute you for the specific conduct described in the
11 information and the statement of facts.

12 Now, it goes on to say, and I have told the prosecutors
13 this, I'm not convinced that that's a correct statement of the
14 law, because the first sentence says the United States, and that's
15 the whole United States, is not going to criminally prosecute this
16 defendant again for activities related to this case, but it goes
17 on in the next -- second sentence to say, "The defendant
18 understands that this agreement is binding only upon the Fraud
19 Section of the Criminal Division . . . and the Criminal Division
20 of the United States Attorney's Office for the Eastern District of
21 Virginia."

22 It does not bind the Civil Division of the United States
23 Department of Justice or the United States Attorney's Office or
24 bind any other section of the Department of Justice.

25 It's my view that the criminal sections, all criminal

1 charges against this defendant would be barred. I don't think
2 that's ever going to be an issue, and you'd have to litigate it,
3 but I don't think the Justice Department can split itself up that
4 way. It's one entity.

5 U.S. attorneys are different. Each U.S. attorney is a
6 separate presidential appointee, and one U.S. attorney cannot bind
7 another U.S. attorney, so this -- in my view, paragraph 10 clearly
8 binds the federal prosecutors here in the Eastern District of
9 Virginia. And civil matters are different, and so I don't think
10 there's any problem that I have with that, but I'm just letting
11 you know for the record, I don't think that portion of the
12 agreement would be enforceable if you had another section of the
13 Criminal Division of the Department of Justice going after the
14 defendant for actions related to this case.

15 MR. STEINBERG: Yes, Your Honor.

16 THE COURT: Do you understand what I've just said,
17 Ms. Kissick?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. But so that you're clear, if you
20 were -- the Florida authorities, for example, the U.S. attorney in
21 Florida could bring fraud charges against you down there even if
22 they were related to this case unless there was a jeopardy issue,
23 because again this U.S. attorney can't bind the U.S. attorney in
24 Florida unless he or she signs off.

25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. Now, in paragraph 11 of this
3 plea agreement, you've agreed to cooperate with the government,
4 and that cooperation is described in subparagraphs a through f,
5 but the cooperation agreement includes among other things your
6 agreement to testify truthfully and completely at any trials,
7 grand juries, or other judicial proceedings.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Or administrative proceedings for that
11 matter. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: You've also agreed to be reasonably
14 available for debriefings and pretrial conferences as the United
15 States requests and to provide any documents, records, or other
16 materials to the government for its use in any criminal or civil
17 matter. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: In paragraph 12, you've agreed -- the
20 government has agreed it will not use against you either to bring
21 a new prosecution or to increase your sentence any completely
22 truthful information you provide under paragraph 12. Do you
23 understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Now, paragraph 16 addresses some

1 of the issues that may result from your plea, and you've agreed in
2 paragraph 16 to the entry of an order of prohibition, and that
3 will prohibit you from further participation in activities or
4 employment that involves the Federal Deposit Insurance Act. In
5 other words, I think that means any employment in a bank that's
6 insured by the FDIC.

7 Is that correct, counsel?

8 MR. STEINBERG: Yes.

9 THE COURT: All right. And that order of prohibition,
10 is that going to be entered today or at the time of sentencing?

11 MR. CONNOLLY: I don't believe it's going to be entered
12 today, Your Honor.

13 THE COURT: All right. At the time of sentencing, all
14 right.

15 But you understand that the result of this conviction if
16 the plea is accepted, Ms. Kissick, is that your ability to work in
17 the banking industry is going to be significantly reduced?

18 THE DEFENDANT: I understand.

19 THE COURT: All right.

20 MR. CONNOLLY: Just to clarify, Your Honor, I don't
21 believe that that's entered in federal court. I think that might
22 be internally entered by the FDIC. I can certainly check on that,
23 or in OTS, but I'm not sure that that's something that's filed in
24 a federal proceeding, but we'll check on that.

25 THE COURT: But I just want to make sure that

1 Ms. Kissick understands that, I mean, as part of what's going to
2 happen in this case, a ramification of it is that she's going to
3 have significant, most likely lifetime restrictions on being able
4 to work in certain areas that I guess you've worked in the past.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. In paragraphs 17 through 19, the
8 plea agreement addresses the issue of forfeiture. A defendant who
9 obtains monies through fraud or other illegal activity can wind up
10 having to forfeit or give that money back to the United States
11 government, and therefore, you have in paragraphs 17 through 19
12 agreed to forfeit among other things any interest that you have in
13 any asset valued at more than a thousand dollars obtained within
14 the last eight years if that can be traced back to the illegal
15 activity.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, at this time, does the government
19 expect there'll be a forfeiture order in this case?

20 MR. CONNOLLY: It's unclear at this point in time, Your
21 Honor. I believe in the statement of facts, there is a statement
22 about -- let me just find it, Your Honor. The Court's indulgence?

23 Your Honor, at this point, it's the government's
24 understanding that Ms. Kissick did not derive anything directly as
25 part of this scheme. However, we're still -- as part of this plea

1 agreement, we'll be getting a financial statement from her at some
2 point.

3 THE COURT: All right.

4 MR. SANDS: I believe what he was referring to, Your
5 Honor, is on page 2. There's a sentence that says the defendant
6 did not personally receive funds paid out by Colonial Bank to TBW
7 as a result of the scheme to defraud.

8 THE COURT: All right. Nevertheless, what you need to
9 understand, Ms. Kissick, is that under your plea agreement, the
10 government is not prohibited from bringing forfeiture actions
11 against you.

12 THE DEFENDANT: I understand.

13 THE COURT: And you've agreed to basically cooperate
14 with those actions, all right?

15 (Defendant nodding head.)

16 THE COURT: Now, the government has also indicated in
17 this plea agreement and you've agreed that you will be responsible
18 for restitution. The amount of the restitution has not yet been
19 determined, but that's in paragraph 9 of the plea agreement. So
20 that's a significant -- could potentially be a very significant
21 financial burden that will be inflicted upon you as part of the
22 sentence.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. But it's also my understanding

1 from the structure of the plea agreement that counsel will be able
2 to argue about the reasonableness of the restitution, because
3 you've not committed to a loss amount in this case. Is that
4 everybody's understanding?

5 MR. STEINBERG: That is correct.

6 THE COURT: All right. The government's as well?

7 MR. CONNOLLY: Yes, Your Honor.

8 THE COURT: All right. Now, Ms. Kissick, most
9 defendants who cooperate with the government do so with the hope
10 that the cooperation will result in some benefit at the -- with
11 the sentence, and that can happen in one of two ways, and that is
12 addressed in paragraph 15 of the plea agreement on page 9. There
13 are two ways in which a defendant's cooperation can be rewarded.

14 The first is if either before or at the time of
15 sentencing, the government files a 5K1.1 motion which basically
16 asks the Court to depart downward from the guideline range because
17 of the defendant's substantial assistance. The other type of
18 motion is a Rule 35(b) motion. That motion is filed after a
19 person has been sentenced, and it asks the Court to reduce the
20 sentence.

21 What paragraph 15 makes clear is that the government has
22 not promised or guaranteed to you that even if you cooperate, you
23 will have the benefit of one of these motions filed on your
24 behalf, and your counsel can't file one of those motions. Only
25 the government can file it, and so if the government does not file

1 one of those motions, that is not a violation of the plea
2 agreement, and it would not give you a basis to withdraw your
3 guilty plea.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Even if the government files such a motion,
7 the Court is not required under the plea agreement to grant the
8 motion or to grant as much of the motion that the government
9 requests. For example, let's say that the government filed a Rule
10 35(b) motion asking the Court to reduce your sentence by 60
11 percent because of cooperation and I felt based upon the facts of
12 the case or how other people have been treated in the case that
13 only a 30 percent reduction was appropriate and that was my
14 decision. That would not violate the plea agreement, and it would
15 not give you a basis to withdraw your guilty plea.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, have you had enough time to discuss
19 with your counsel everything you know about this case?

20 THE DEFENDANT: Yes.

21 THE COURT: And have counsel -- have you been able to
22 adequately talk with counsel about any ways in which you could
23 possibly defend yourself against the case? In other words, have
24 your lawyers told you, well, the government has this evidence,
25 we've had some preliminary discovery, here are the issues in the

1 case, we could try to do this, we could try to do that, but, you
2 know, what the likelihood of success is? I mean, that kind of
3 cost/benefit analysis, have you gone through that with your
4 counsel?

5 THE DEFENDANT: Yes.

6 THE COURT: Are you fully satisfied with the way in
7 which your counsel have worked for you in this case?

8 THE DEFENDANT: Yes.

9 THE COURT: And do you understand that you still at this
10 time have a right to plead not guilty and to go to trial on the
11 criminal information?

12 THE DEFENDANT: I understand that.

13 THE COURT: If you did go to trial, then the burden
14 would be on the government, and that is a burden of proof beyond a
15 reasonable doubt in order for them to convict you. Now,
16 specifically in a conspiracy case, in order to convict a
17 defendant, the government has to prove all of the essential
18 elements of the charge beyond a reasonable doubt.

19 So they have to prove that there was between 2002 and
20 August of 2009 a conspiracy, that is, an agreement between at
21 least two people to violate certain federal laws, specifically,
22 the statutes that prohibit bank fraud, wire fraud, and securities
23 fraud. Then they have to prove beyond a reasonable doubt that at
24 some point during the life of that agreement, you became aware of
25 the agreement and knowingly and intentionally involved yourself in

1 the agreement.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: And they have to prove that at least one act
5 in furtherance of that conspiracy occurred in the Eastern District
6 of Virginia, and in this case, again, venue is established in
7 criminal cases if even one act occurs in furtherance of the
8 conspiracy. So if you sent wire communications into the Eastern
9 District of Virginia to the SEC or any of these wire transmissions
10 came into Virginia, that's enough to bring the conspiracy here.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: And, counsel, I assume you talked about the
14 venue issues with your client?

15 MR. STEINBERG: Yes, Your Honor.

16 MR. SANDS: Yes, Your Honor.

17 THE COURT: All right. Now, if you chose to plead not
18 guilty and go to trial on this charge, you'd have certain
19 protections that you're giving up by pleading guilty. First you
20 could see all the government's witnesses and evidence and test it
21 through the questions of your lawyer. Do you understand that?

22 THE DEFENDANT: I do.

23 THE COURT: You could ask the Court to issue subpoenas
24 that would require the presence at the courthouse of witnesses or
25 physical evidence so you could use that information in your

1 defense at trial. Do you understand that?

2 THE DEFENDANT: I do.

3 THE COURT: You could testify as a witness at trial. Do
4 you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: You could also invoke your Fifth Amendment
7 right to remain silent, and if you chose not to testify, no
8 inference of guilt could be drawn from that silence. Do you
9 understand that?

10 THE DEFENDANT: I do.

11 THE COURT: You would, of course, have the right to the
12 help of counsel throughout any trial, and if you could not afford
13 to pay for an attorney on your own, then we would have a
14 taxpayer-appointed counsel for you. Do you understand that?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: If you continued with a not guilty plea, you
17 could choose how your case was tried. You could have a trial
18 before a judge alone, which is called a bench trial, or a trial by
19 jury, in which case 12 ordinary citizens would be brought together
20 to try the case, but in either type of trial, you could not be
21 convicted unless the government proved your guilt beyond a
22 reasonable doubt.

23 Do you understand that?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: If you continued with a not guilty plea,

1 your counsel could try to attack the prosecution's case, and there
2 are many ways in which that can be done. Whether successful or
3 not, you know, there's no way of knowing.

4 If, for example, you gave a confession or a statement,
5 there may be a basis to move to suppress the statement if you
6 didn't get proper *Miranda* warnings or if other problems occurred.
7 If there were searches of your financial records, of your home,
8 whatever, there may or may not be defects in how that was done.
9 Those are just examples of the kinds of things that attorneys can
10 sometimes do.

11 What you need to understand is that by pleading guilty,
12 you're giving up those types of attacks on the prosecution's case.
13 Do you understand that?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: And lastly, if you pled not guilty and you
16 went to trial and you were found guilty at trial, you could appeal
17 that finding of guilt to a higher-level court. Now, do you
18 understand that by being found guilty based upon a guilty plea as
19 well as under the terms of this plea agreement, you're giving up
20 your right to appeal your conviction?

21 THE DEFENDANT: I understand.

22 THE COURT: All right. Other than the plea agreement
23 that's in court today, has anybody promised or suggested to you
24 that by pleading guilty, you would get a lighter sentence or more
25 favorable treatment by the Court?

1 THE DEFENDANT: No one has.

2 THE COURT: Has anyone put any force or pressure on you
3 to plead guilty today?

4 THE DEFENDANT: No.

5 THE COURT: All right, Ms. Kissick, the last aspect of
6 the plea agreement that we need to go over is the written
7 statement of facts, and that statement of facts is again quite a
8 few pages long. It's 11 pages long, and on the 11th page, I see
9 what appears to be your signature. There is no date, so I'm
10 curious, did you sign that today, or had that been signed earlier?

11 THE DEFENDANT: It was signed earlier.

12 THE COURT: This was signed earlier?

13 MR. STEINBERG: This was signed earlier. This was
14 signed approximately two weeks ago.

15 THE COURT: All right. Now, Ms. Kissick, before you
16 signed the statement of facts, did you read it over for yourself
17 word for word?

18 THE DEFENDANT: Yes.

19 THE COURT: And discuss it thoroughly with counsel?

20 THE DEFENDANT: Yes.

21 THE COURT: And do you understand that by signing this
22 statement of facts, you are admitting, No. 1, to the truth of all
23 the 21 numbered paragraphs, and you're also admitting that if the
24 case had gone to trial, the government could have proven all those
25 facts beyond a reasonable doubt? Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. Now, again, because it's so long
3 and I have read it and you've told me you've read it, it's not my
4 intention to actually go over it with you in court today, but this
5 is your day in court. If there's any fact in this document with
6 which you do not agree or that you think is not accurate, this is
7 the time to make that record clear. Is there anything?

8 THE DEFENDANT: I'm fine. I already made the --

9 THE COURT: I'm sorry?

10 THE DEFENDANT: I already made my comments to Kent
11 earlier. We got them corrected before we came here so -- before I
12 signed.

13 THE COURT: So all the concerns that you had about the
14 accuracy have been addressed, and all those corrections have been
15 made as far as you're concerned?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Now, counsel, is that correct?
18 Because this is establishing the record. For example, the
19 Probation Office will use this statement of facts, and so if
20 there's, if there's any kind of a discrepancy between what you-all
21 say at the sentencing hearing and what's here, that could be an
22 issue about acceptance of responsibility.

23 So I want to give you-all an opportunity if there's
24 anything here that you think is not completely accurate, this is
25 the time to set the record straight. Either counsel want to

1 address that?

2 MR. SANDS: No, Your Honor.

3 MR. STEINBERG: Your Honor, we, we have reviewed the
4 statement of facts --

5 THE DEFENDANT: That's fine.

6 MR. STEINBERG: -- and I believe that there's been
7 substantial discussion about the accuracy, and the agreement is
8 the statement of facts is accurate.

9 THE DEFENDANT: Um-hum.

10 THE COURT: Among other things, for example, let me just
11 point out, like, on page 7, for example, there's the statement in
12 about the fourth line down, "Despite these efforts, the government
13 would prove at trial that during the course of the conspiracy
14 charged in Count 1 of the information, the defendant and
15 coconspirators caused Colonial Bank to pay TBW more than \$400
16 million for Plan B loans and fictitious AOT trades." I mean,
17 that's a, that's a loss amount that may be relevant to the
18 sentencing.

19 MR. SANDS: My understanding of it, Your Honor, is that
20 that is a statement that may and would be relevant to the
21 computation of the loss amount. I wouldn't say that it's
22 necessarily dispositive of the determination of the loss amount.

23 THE COURT: All right.

24 MR. SANDS: And we have issues which we'll raise
25 potentially later on with regard to that.

1 THE COURT: But you can't back off of the 400 million.

2 MR. SANDS: No. Believe me, Your Honor, we have had
3 long discussions about the statement of facts, and it's changed
4 over time, and that particular sentence is well thought out and
5 agreed to by the defendant and myself.

6 THE COURT: All right. And, Ms. Kissick, again, this is
7 your day in court. Do you agree with what counsel just said?

8 THE DEFENDANT: Yes.

9 THE COURT: All right, that's fine.

10 Now, do you understand, Ms. Kissick, if the Court
11 accepts your guilty plea today, there will be no trial of the
12 issue, and you will be found guilty of this conspiracy?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you claim in any respect that you are
15 innocent of the conspiracy?

16 THE DEFENDANT: No.

17 THE COURT: How then do you plead?

18 THE DEFENDANT: Guilty.

19 THE COURT: All right. And, Mr. Steinberg, since you're
20 right next to the defendant, have you had enough time, you and
21 cocounsel, to thoroughly go over this plea with Ms. Kissick?

22 MR. STEINBERG: Yes, Your Honor.

23 THE COURT: Does the plea accord with your understanding
24 of the facts and circumstances?

25 MR. STEINBERG: Yes, Your Honor.

1 THE COURT: In your opinion, has Ms. Kissick made her
2 plea of guilty in a voluntary and knowing fashion?

3 MR. STEINBERG: Absolutely, yes.

4 THE COURT: All right. At this point, Ms. Kissick,
5 based on all these answers to the Court's questions, I'm satisfied
6 that you've entered your guilty plea in a knowing and voluntary
7 fashion, that you've had the full advice of counsel in connection
8 with the plea, and it's a plea that you've had under consideration
9 for many months, and I'm also satisfied that the written statement
10 of facts which you have acknowledged as being completely accurate
11 is more than enough evidence upon which to find you guilty beyond
12 a reasonable doubt of the plea of conspiracy, so the plea is
13 accepted, and you are found guilty of the charge.

14 Now, this was your first day in court on this case; is
15 that correct?

16 THE DEFENDANT: Yes.

17 THE COURT: There was no criminal complaint, so there's
18 no bond that's yet been set.

19 MR. STEINBERG: That is correct.

20 THE COURT: We have a report from Pretrial Services. I
21 assume, counsel, you-all had the benefit of that report?

22 MR. STEINBERG: Yes, Your Honor.

23 MR. CONNOLLY: Yes, Your Honor.

24 THE COURT: All right. And the report recommends that a
25 bond be set, and I have no problem with that. Does the government

1 have any objections to any of the recommendations in the report?

2 MR. CONNOLLY: No, Your Honor. We'd ask for a \$50,000
3 PR bond, and I think counsel's going to request that travel
4 restrictions be expanded to include the entire State of Florida,
5 and we have no objection to that, Your Honor.

6 THE COURT: All right. Is that correct?

7 MR. STEINBERG: That is correct.

8 MR. SANDS: Yes, Your Honor.

9 THE COURT: All right, let me go ahead then and start
10 working on the bond papers.

11 MR. STEINBERG: Your Honor, in the standard conditions
12 and the conditions that Parole recommended, there is a condition
13 that Ms. Kissick not -- refrain from possessing a firearm,
14 destructive device, or other dangerous weapon. Her husband does
15 have a, sort of a -- does have a firearm. It's a, I believe it's
16 a rifle.

17 THE DEFENDANT: No.

18 MR. SANDS: It's a pistol.

19 MR. STEINBERG: Oh, it's a pistol; I'm sorry. It is
20 secured. It is locked. She has no access to it, and it is one
21 that she will not possess at all.

22 THE COURT: All right.

23 MR. SANDS: I have a notarized statement from her
24 husband, Your Honor, attesting to that, that it's stored in a
25 locked hard case and it's further restricted by a lock fitted over

1 the trigger guard. He is the only person who knows the
2 combination of either lock, and he will not provide any family
3 member with access to the pistol.

4 THE COURT: All right. The issue about firearms is a
5 tricky one, Ms. Kissick, because you are a convicted felon at this
6 time, and there's a separate federal statute that prohibits a
7 convicted felon from possessing a firearm, and "possession" means
8 basically having it within your control.

9 So, for example, if your husband and you were driving in
10 your car and he brought the gun with him in the car and put it in
11 the console and you're sitting in the passenger seat and he's in
12 the driver's seat and the car got pulled over, you might have a
13 problem. So he really has to be very careful, and you have to be
14 careful that you can't be anywhere around the gun, you can't be in
15 a situation where you could get access to it.

16 THE DEFENDANT: I don't even know where it is in our
17 house.

18 THE COURT: All right, that's fine.

19 MR. STEINBERG: She does not like the firearm itself.

20 THE DEFENDANT: I don't like it at all.

21 MR. STEINBERG: So she's unlikely to possess it, Your
22 Honor.

23 THE COURT: All right. Let me go ahead and get a
24 sentencing date.

25 MR. STEINBERG: Yes, Your Honor.

1 MR. CONNOLLY: Your Honor, as this Court is aware, we
2 would ask that the Court extend out the sentencing date a bit post
3 the trial in the related matter that's set for April 4.

4 THE COURT: Didn't we do the codefendant for June 10?

5 MR. CONNOLLY: Yes, Your Honor. We're happy to do it
6 the same day if it's amenable to the Court.

7 THE COURT: Does that work for counsel?

8 MR. STEINBERG: I am not available that date. I am the
9 next week.

10 THE COURT: The 17th.

11 MR. STEINBERG: The 17th I'm available.

12 MR. SANDS: I will make myself available.

13 THE COURT: We can do it either time. I mean, I don't
14 need -- I mean, I would be willing to waive Mr. Steinberg's
15 appearance, but I think there may be some other related cases that
16 will be sentencing as well, so why don't we just leave this on for
17 the 17th then --

18 MR. CONNOLLY: That's fine.

19 MR. SANDS: That's fine.

20 THE COURT: -- so everybody can be present.

21 That will be at 9:00.

22 Ms. Kissick, do you have your passport with you today?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right, you need to hand it up.

25 All right, Ms. Kissick, I'm placing you on a personal

1 recognizance bond with the following conditions: First of all,
2 you must be of uniform good behavior. That means you're not to
3 violate any federal, state, or local laws while on supervision.
4 Do you understand that?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Secondly, you have to follow all the
7 conditions that are printed in the order setting conditions of
8 release and that will be explained to you by the pretrial officer.
9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: As special conditions, you must reappear in
12 this court on Friday, June 17, at 9 a.m. for sentencing. Do you
13 understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: You will have to also execute an unsecured
16 bond in the amount of \$50,000, and that means if for any reason
17 you violate any condition of bond, the government would have an
18 immediate judgment against you for \$50,000. Do you understand
19 that?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. You must -- are you currently
22 working?

23 THE DEFENDANT: Not really. Consulting.

24 THE COURT: Well, that -- are you getting paid for the
25 consulting?

1 THE DEFENDANT: I'm taking a two-month break during the
2 trial, so -- I was getting paid, and I have one more paycheck
3 left.

4 THE COURT: Well, it's a good thing especially since
5 you're most likely going to have some restitution, some monetary
6 aspect of this sentence, that you should work if you possibly can.

7 THE DEFENDANT: Okay.

8 THE COURT: All right? So I'm going to have, I'm
9 checking the box "maintain or actively seek employment," all
10 right?

11 THE DEFENDANT: Okay.

12 THE COURT: I'm going to require that you are not to
13 depart the State of Florida without permission in advance from
14 Pretrial Services. When you know you're going to come up to
15 Virginia for meeting with counsel or for sentencing, you just have
16 to give those dates to your pretrial officer in advance.

17 And if there's some legitimate reason why you have to go
18 outside of Florida for a family emergency or something, again,
19 Pretrial has to approve it, but they may approve travel outside of
20 Virginia for other purposes other than just coming to court.
21 That's up to them. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: All right.

24 MR. STEINBERG: And Florida, right?

25 THE COURT: Yes. You are to report on a regular basis

1 as they direct, both Pretrial Services and the Probation Office.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: You may not possess a firearm, destructive
5 device, or other dangerous weapon. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: You cannot use alcohol to excess or use or
8 possess any illegal drugs. Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: You've just surrendered your passport. That
11 will be kept with Pretrial Services, and you are not to obtain any
12 passport or travel documents while on bond. Do you understand
13 that?

14 THE DEFENDANT: Yes.

15 THE COURT: There -- now, does the government want -- I
16 don't think we've done this in the other ones -- do you want a no
17 contact element to this?

18 MR. CONNOLLY: Yes, Your Honor, and we discussed that
19 with counsel and don't think that's -- not a problem.

20 THE COURT: All right.

21 MR. CONNOLLY: But yes, we ask for that, Your Honor.

22 THE COURT: Is there any reason why you would have
23 contact with Desiree Brown, Lee Farkas, or anybody else that's
24 involved in this case?

25 THE DEFENDANT: No.

1 THE COURT: No?

2 THE DEFENDANT: There's no reason.

3 THE COURT: All right. I don't want this, however, to
4 be construed as prohibiting Mr. Farkas's counsel from talking with
5 Ms. Kissick or any -- because I see Mr. Williams is here -- or any
6 other witness. I mean, that is the right of a defense attorney to
7 try to interview people so --

8 MR. CONNOLLY: We're not worried about this as an issue,
9 Your Honor, and that's certainly not our intent in that regard at
10 all.

11 THE COURT: All right. If defense counsel want to talk
12 to you, it's up to you whether you're going to talk to them or
13 not. It's your right to talk to them, and it's your right not to
14 talk to them.

15 THE DEFENDANT: Okay.

16 THE COURT: You shouldn't be talking to Mr. Farkas or
17 Ms. Brown or any of these other people themselves directly, but if
18 counsel on their behalf want to talk to you, that's up to you.

19 THE DEFENDANT: Okay.

20 THE COURT: I recommend you consult with your attorneys
21 about that, but this is not meant to restrict that kind of a
22 contact. Do you understand that?

23 THE DEFENDANT: Um-hum.

24 THE COURT: And I would also advise you -- and this is
25 not in the order, but it's on the record -- that if any of these

1 individual persons, not their attorneys but the persons
2 themselves, contact you, e-mail you, send you a letter, call you,
3 you should immediately report that to your counsel.

4 THE DEFENDANT: All right.

5 THE COURT: All right? So I'm just going to say in box
6 No. (s) in paragraph 7, "no contact with codefendants unless in
7 the presence of counsel." I think that takes care of that, all
8 right?

9 MR. CONNOLLY: All right.

10 THE COURT: To be more exact, it should be "No contact
11 with coconspirators," because some of those folks are not yet
12 defendants, but there are other people who are involved in this
13 activity.

14 All right, there's no history of drug abuse, so I'm not
15 requiring the mandatory drug testing, but if the Probation Office
16 feels it appropriate, they can demand a drug test from you at any
17 time, and you must comply. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And lastly, you are required to advise any
20 employer about this case and the fact that you've been, been
21 convicted. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Does the government have any additional
24 requests that the Court include in this bond order?

25 MR. CONNOLLY: No, Your Honor.

1 THE COURT: No? Anything further from counsel?

2 MR. STEINBERG: No, Your Honor.

3 THE COURT: All right. Now, when you leave court today,
4 the first thing you have to do is get these bond papers executed,
5 and then, counsel, you need to take Ms. Kissick down to the
6 Marshal's Office, where you will be fingerprinted and processed,
7 Ms. Kissick, and then over to the Pretrial Office so they can
8 enroll you in the pretrial process, and then also over to the
9 Probation Office.

10 A good deal of the interviewing, I suspect, will be done
11 in Florida. There are Probation and Pretrial Offices down there,
12 but the people up here have to get you into the system, all right?

13 THE DEFENDANT: Yes.

14 THE COURT: So, Mr. Steinberg, you know the routine.

15 MR. STEINBERG: Yes.

16 THE COURT: All right, very good. Anything further on
17 this case?

18 MR. CONNOLLY: Not from the government, Your Honor.

19 THE COURT: All right, then we'll recess court for the
20 day.

21 (Which were all the proceedings
22 had at this time.)
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CERTIFICATE OF THE REPORTER

I certify that the foregoing is a correct transcript of the
record of proceedings in the above-entitled matter.

/s/

Anneliese J. Thomson